

11.2 (12501)

Comment - EIS001878 / 0089

The DEIS must also disclose whether the loss or diminution of a water right would be a taking of private property rights requiring compensation under the Constitution of the United States.

Response

The general purpose of this EIS is to analyze the potential for environmental impacts from the Proposed Action to construct, operate and monitor, and eventually close a repository for disposal of spent nuclear fuel and high-level radioactive waste at Yucca Mountain. The EIS is not the appropriate forum to make determinations on constitutional matters. The EIS discusses the availability of groundwater resources in Section 3.1.4.2. Section 4.1.3.3 addresses the potential for adverse impacts to groundwater, including the potential for impacts to water availability, anticipated from repository construction and operation. Chapter 5 contains a full discussion of the potential for adverse long-term groundwater impacts and analyzes the potential for groundwater contamination thousands of years after the emplacement of spent nuclear fuel and high-level radioactive waste in the proposed repository. The EIS does not address the issue of whether the loss or diminution of any water right would be a taking of private property rights requiring compensation under the Constitution of the United States. Whether such an effect on a water right, if it occurred, would require compensation is a separate legal question that is beyond the purview of the EIS, and would more properly be a matter for consideration by the courts.

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